

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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Trustees of Empire State Carpenters Annuity,
Apprenticeship, Labor-Management
Cooperation, Pension and Welfare Funds,

ADOPTION ORDER
14-cv-2891(ADS)(AKT)

Plaintiff,

-against-

CMI CASEWORK & MILLWORK, INC.,
Defendant.

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APPEARANCES:

Virginia & Ambinder, LLP

Attorneys for the Plaintiff
40 Broad Street, 7th Floor
New York, NY 10004

By: Elina Burke, Esq.

Richard B. Epstein, Esq.

Charles R. Virginia, Esq., Of Counsel

SPATT, District Judge.

On May 7, 2014, the Plaintiff Trustees of Empire State Carpenters Annuity,
Apprenticeship, Labor-Management Cooperation, Pension and Welfare Funds (the “Plaintiff”)
commenced this action.

The Plaintiff asserts claims pursuant to Section 502(a)(3) of the Employee Retirement
Income Security Act of 1974 (“ERISA”), 29 U.S.C. § 1132(a)(3), Section 9 of the Federal
Arbitration Act, 9 U.S.C. § 9, and Section 301 of the Labor Management Relations Act
 (“LMRA”), 29 U.S.C. § 185, seeking to confirm an arbitration award rendered in conjunction
with a collective bargaining agreement (“CBA”) between the Empire State Regional Council of
Carpenters (the “Union”) and C.M.K. Contracting Inc. d/b/a CMK Contractors Inc.
 (“Defendant”).

In that regard, on February 27, 2014, J.J. Pierson, Esq., the duly designated impartial arbitrator, found the Defendant liable for violating the terms of the CBA. As such, the arbitrator awarded the Defendant: (1) \$1,386,601.26 for estimated delinquent contributions; (2) \$349,006.74 in interest on the unpaid contributions; (3) \$277,320.25 in liquidated damages; (4) \$1,500.00 in attorneys' fees; and (5) \$750.00 for the arbitrator's fee. However, the Defendant has failed to comply with the February 27, 2014 arbitration award.

In the present action, the Plaintiff seeks an Order confirming the arbitrator's award as well as attorneys' fees and costs incurred in connection with this enforcement action.

On July 8, 2014, the Plaintiff requested a Certificate of Default with the Clerk of the Court. On the same day, the Clerk of the Court issued the Certificate of Default and certified the Defendant's default.

On July 31, 2014, the Plaintiff moved for default judgment.

On August 19, 2014, the Court referred this matter to United States Magistrate Judge A. Kathleen Tomlinson for a recommendation as to whether the motion for a default judgment should be granted, and if so, whether damages should be awarded, including reasonable attorneys' fees and costs.

On February 10, 2015, Judge Tomlinson issued a Report recommending that the Plaintiff's motion for default judgment be granted and that the Plaintiff be awarded the following damages: (i) \$ 1,386,601.26 in unpaid contributions; (ii) \$ 349,006.74 in interest on the unpaid contributions; (iii) \$ 227,320.25 in liquidated damages; (iv) \$ 2,550.00 in attorneys' fees; and (v) \$ 1,217.50 in costs and disbursements.

More than fourteen days have elapsed since service of the Report and Recommendation on the Defendants, who have failed to file an objection.

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, this Court has reviewed the February 10, 2015, Report and Recommendation for clear error, and finding none, now concurs in both its reasoning and its result. See Coburn v. P.N. Fin., No. 13-CV-1006 (ADS)(SIL), 2015 WL 520346, at *1 (E.D.N.Y. Feb. 9, 2015) (reviewing Report and Recommendation without objections for clear error). Accordingly, the February 10, 2015 Report and Recommendation is adopted in its entirety, and the Plaintiff's motion for a default judgment is granted. The Clerk of the Court is directed to enter judgment for the Plaintiff and to close this case.

SO ORDERED.

Dated: Central Islip, New York
March 14, 2015

/s/ Arthur D. Spatt
ARTHUR D. SPATT
United States District Judge